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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/821,796	03/30/2001	Yves Le Du	ATOCM-209	4998

23599 7590 06/18/2004

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EXAMINER
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JACKSON, MONIQUE R

ART UNIT	PAPER NUMBER
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1773

DATE MAILED: 06/18/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

AS

<b>Office Action Summary</b>	<b>Application No.</b> 09/821,796	<b>Applicant(s)</b> LE DU ET AL.	
	<b>Examiner</b> Monique R Jackson	<b>Art Unit</b> 1773	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 12 March 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 16-40 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-19, 27-30, 33, 34 and 36-40 is/are rejected.
- 7) ☒ Claim(s) 20-26, 31, 32 and 35 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

**DETAILED ACTION**

1. The amendment filed 3/12/04 has been entered. New claim 40 has been added.

Claims 16-40 are pending in the application.

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Claim Rejections - 35 USC § 112***

3. Claims 27, 28, 34, 37, 38, and 39 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention, particularly commensurate in scope with these claims, or to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. As previously stated in the prior office action, the Examiner notes that the instant claims as currently recited state that the structure comprises a “polypropylene layer (2) having a melting point above the melting point of the binder layer” and the “heat treating being at a temperature below the melting point of the polypropylene layer (2)” (see Claims 34 and 37-39), however based on the original disclosure at the time of filing, polypropylene layer (2) is part of the container not the multilayer lid structure. The specification does not teach any relationship between the polypropylene layer (2) and the binder layer or the heat treatment; it only teaches a relationship with polypropylene layer (7) which is optionally part of the multilayer lid. Hence it is also noted that the claims that recite a cover made from the structure comprising the polypropylene layer (2) or a package

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sealed by a cover comprising the polypropylene layer (2) (Claims 27 and 28) are not supported given that the polypropylene layer (2), according to the description, is actually part of the container and not lid or cover.

***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. Claims 16, 17, 18, 19, 29, 30, 36 and 40 are rejected under 35 U.S.C. 102(e) as being anticipated by Trouilhet (USPN 6,224,973.) Trouilhet teaches a multilayer sheet suitable as a sealable sheet or lid wherein the lid comprises a metal substrate, a bonding or tie layer of modified polyolefin such as ethylene ionomer and a peel/seal layer such as a polypropylene peel layer with 5-30wt% calcium carbonate which, when sealed to a container or tray with a polypropylene inner layer, is peelable from the polypropylene inner layer of the tray and wherein the multilayer sheet may be produced by extrusion coating with line speeds of 100m/min and higher, wherein peel forces are within the instantly claimed ranges, and wherein the tie and peel layers inherently have melting temperature relationships that read upon the instantly claimed relationships (Abstract; Col. 2-3; Examples, specifically Example 10.)

***Claim Rejections - 35 USC § 103***

6. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Trouilhet. The teachings of Trouilhet are discussed above. Trouilhet does not specifically teach heat treating the extrusion coated substrate to a temperature above the melting temperature of the extruded polypropylene however annealing is a conventional step utilized in the art to heat set the resulting coating and would have been obvious to one having ordinary skill in the art at the time of the invention.

***Allowable Subject Matter***

7. Claims 20-26, 31-32 and 35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. The following is a statement of reasons for the indication of allowable subject matter: the closest prior art, Trouilhet does not teach or render obvious a multilayer lid structure comprising a binder layer having the instantly claimed composition.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Monique R Jackson whose telephone number is 571-272-1508. The examiner can normally be reached on Mondays-Thursdays, 8:00AM-4:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Paul J Thibodeau can be reached on 571-272-1516. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Monique R. Jackson  
Primary Examiner  
Technology Center 1700  
June 10, 2004